

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: TOM YUXIN ZHU

Appeal No. 2008-2807
Application 10/730,447

Mailed: July 28, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER REMANDING TO EXAMINER

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed February 1, 2006, under the heading "Grounds of rejection to be reviewed on appeal" is not provided in the brief. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after

final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

Additionally, further review of the file indicates that the Appeal Brief filed February 1, 2006, does not comply with 37 C.F.R. § 41.37(c) because it does not contain all required heading items. Specifically, 37 C.F.R. § 41.37 (c)(1) requires the following heading items in the following order:

- (i) *Real party in interest.*
- (ii) *Related appeals and interferences.*
- (iii) *Status of claims.*
- (iv) *Status of amendments.*
- (v) *Summary of claimed subject matter.*
- (vi) *Grounds of rejection to be reviewed on appeal.*
- (vii) *Argument.*
- (viii) *Claims appendix.*
- (ix) *Evidence appendix.*
- (x) *Related proceedings appendix.*

Upon an in-depth review of the Appeal Brief indicates that the following sections are missing from the Appeal Brief and are not complete:

- ix) “Evidence Appendix”,
- x) “Related Proceedings Appendix”,

A substitute brief that is in compliance with § 41.37(c) is required.
See also Manual of Patent Examining Procedure (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

CONCLUSION

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on February 1, 2006 defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of Rejection of all claims;
- 3) notify Appellant to file a paper properly addressing the Evidence Appendix;
- 4) notify Appellant to file a paper properly addressing the Related Proceedings Appendix; and
- 5) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS/ewh

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